

201 KAR 47:020. Inspections, discipline, reinstatement, and administrative appeals.

RELATES TO: KRS 17.500, Chapter 209, 309.406, 309.412, 309.414, 309.416, 309.418, 309.420, 439.3401

STATUTORY AUTHORITY: KRS 309.404, 309.406, 309.412, 309.414, 309.416, 309.418, 309.420

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.404(4) and 309.406(1)(a) authorize the board to promulgate administrative regulations governing home medical equipment and services providers. KRS 309.418 authorizes the board to discipline licensees and expunge minor violations. This administrative regulation establishes inspection and investigation procedures, the process for seeking an expungement of a minor violation, and the process for appeals.

Section 1. Inspections. (1) Pursuant to KRS 309.406 and 309.414, the board and its inspectors may inspect and investigate all applicants and licensees as well as their premises and records:

- (a) In conjunction with an application;
 - (b) If the board has grounds to believe that the actions of an applicant or licensee are endangering the public;
 - (c) If there is reason to believe an applicant or licensee has violated any provision of KRS Chapter 309.400 through 309.422 or 201 KAR Chapter 47;
 - (d) To investigate a complaint; or
 - (e) To verify that action has been taken to correct a violation.
- (2) The board may conduct an unannounced inspection of a licensee's premises and records to ensure compliance with the provisions of KRS 309.400 through KRS 309.422 and 201 KAR Chapter 47.
- (3) The board may investigate a licensee's or applicant's criminal history and may obtain those reports as part of the licensure process, an inspection, or during an investigation.
- (4) Unless a deficiency threatens the public safety subject to KRS 309.406(1)(g), the licensee or applicant shall be advised in writing of any deficiencies and shall have thirty (30) days to correct the deficiency.

Section 2. Reinstatement. (1) A person whose license has been revoked may petition the board for reinstatement of the license. The petition shall include:

- (a) The person's name;
 - (b) The person's license number;
 - (c) A statement of why the license was revoked and if the person's license was revoked because the person was convicted of or entered an Alford plea or plea of nolo contendere to:
 - 1. A sex crime as defined in KRS 17.500;
 - 2. A criminal offense against a victim who is a minor as defined in KRS 17.500;
 - 3. A felony offense under KRS Chapter 209; or
 - 4. An offense that would classify the person as a violent offender under KRS 439.3401;
 - (d) An explanation of how the person has been rehabilitated and is again able to engage in the practice of providing home medical equipment and services with applicable skill, competency, and safety to the public; and
 - (e) A processing fee of twenty-five (25) dollars.
- (2) A reinstated license shall expire two (2) years following the date it was first issued.

Section 3. Permanent Record. The board shall maintain a permanent record of:

- (1) A licensee's violations;
- (2) The date of the violation;
- (3) The disciplinary action taken; and
- (4) The date on which the disciplinary action was completed.

Section 4. Expungement. (1) Except as established in subsection (3)(b) of this section, a licensee may request that the board expunge a minor violation.

(2) Minor violations shall include:

- (a) The failure to meet an inspector at a scheduled inspection; or
- (b) A first-time failure to update information provided on an application for licensure.

(3) To request an expungement, a licensee shall provide:

- (a) A written request stating with specificity the violation to be expunged;
- (b) If not listed as a minor violation in subsection (2) of this section, an explanation of why the violation should be deemed minor based upon the considerations established in KRS 309.418(7)(d); and
- (c) A twenty-five (25) dollar processing fee.

Section 5. Appeals. (1) An applicant or licensee may request an administrative hearing before the board within twenty (20) days of the denial, suspension, or revocation of a license.

(2) The appeal shall include:

- (a) The name of the licensee;
- (b) A copy of the notice of the denial, suspension, or revocation; and
- (c) A brief statement of the reasons for the appeal.

(3) Appeals shall be governed by KRS Chapter 13B. (43 Ky.R. 644, 1172; eff. 2-3-2017.)